



City of Loma Linda Official Report

Karen Gaio Hansberger, Mayor
Floyd Petersen, Mayor pro tempore
Robert Christman, Councilmember
Stan Brauer, Councilmember
Robert Ziprick, Councilmember

COUNCIL AGENDA: June 8, 2004

TO: City Council

SUBJECT: Proposed measure for the November 2004 ballot relating to Las Vegas-style gambling throughout California

Stop the Flynt Gambling Proposition

May 26, 2004

Karen Gaio
Mayor Pro Tem, City Of Loma Linda
25541 Barton Rd
Loma Linda, CA 92354-3160

Dear Mayor Pro Tem Gaio:

As you may be aware, Hustler Magazine publisher Larry Flynt and 14 other racetrack and card club owners are promoting a measure for the November 2004 election that would pave the way for Las Vegas-style gambling throughout California.

They have presented their proposition as a way to make Indian casinos pay their fair share to the state. But don't be fooled. This is simply a way for these 15 commercial gambling promoters to make huge profits while undermining local control via the statewide initiative process.

This deceptive measure has already been opposed by Republican leaders including Senator Jim Brulte, Senator Tom McClintock, Assemblywoman Bonnie Garcia, and Assemblyman Rick Keene.

In addition, the California Police Chiefs Association, California State Firefighters Association, more than 30 County Sheriffs, California Coalition of Law Enforcement Association, California County Superintendents Educational Services Association and the National Tax Limitation Committee have already come out strongly opposed to the measure.

This proposition sets a terrible precedent of using the initiative process to undermine local control. Specifically, it exempts these gambling casinos from compliance with the California Environmental Quality Act and local zoning laws.

Also hidden in the fine print of the proposition is a provision that exempts these gambling establishments from future state and local tax increases.

According to a recent news release from the California Police Chiefs Association, it "strongly opposes the casino gambling proposition...and intends to take the lead in urging all Californians to reject this threat to public safety."

I hope you'll also oppose Larry Flynt's deceptive gambling proposition by signing and returning the enclosed Opposition Form today.

Sincerely,



Ted Green
Statewide Coalition Director
310/996-2676

Stop the Flynt Gambling Proposition
A Coalition of Indian Gaming Tribes, major funding by
United Auburn Indian Community and Pala Band of Mission Indians.
111 Anza Blvd., Suite 406, Burlingame, CA 94010 ♦ Tel: (800) 420-8202 Fax: (650) 340-1740
11300 W. Olympic Blvd., Suite 840, Los Angeles, CA 90064 ♦ Tel: (310) 996-2676 Fax: (310) 996-2673

Stop the Flynt Gambling Proposition

Why Should Cities and Counties Oppose The Deceptive Gambling Initiative?

WHAT'S THIS MEASURE ALL ABOUT?

Its primary objective is to allow eleven privately-owned card clubs and five privately-owned horseracing tracks to operate 30,000 slot machines/gaming devices at their facilities. Essentially, it would give these card clubs and racetrack owners a permanent, constitutional right to build large, Las Vegas style casinos in city and suburban neighborhoods throughout the state without limitation or control by local communities.

The gambling industry special interests behind this measure will try to sell it to you by promising it will help finance local government programs. But don't be fooled, the only reason for this proposition is to increase profits for those bankrolling it. And they cynically want to hide behind your good name to help promote their cause.

WHAT'S THE IMPACT ON LOCAL GOVERNMENT?

Its promoters claim that their gambling proposition is all about helping foster children, police and firefighters. In return for the billions they would rake in from their new casino operations, they'd provide a percentage of the net win from their gambling machines into a state fund with restricted allocations to new child abuse, police and fire programs.

(Source: Gaming Revenue Act Section 3, 19)

But the measure is so deceptively written and comes with so many strings attached, it would reduce local control, require additional state mandates, and would actually hurt cash-strapped local police, sheriffs and fire departments.

The initiative prohibits use of this funding to save the jobs of existing public safety personnel whose positions are threatened by existing budget deficits. It specifically allocates funding only for "**additional**" neighborhood sheriffs, police officers and firefighters. And the costs of providing support services to these additional public safety officers such as uniforms, training, equipment, vehicles, and facility costs would not be covered by funding from this measure. These support costs would have to borne as a separate and additional expense by local governments. Finally, there's absolutely no money allocated for other essential public services threatened by growing municipal budget deficits. More importantly, local governments would have no discretion to allocate funds to respond to local needs and priorities.

As the Sacramento Bee recently editorialized:

"While it would provide money to local governments, it would also deny those governments flexibility to spend money where it is most needed."

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WHO IS PROMOTING THE PROPOSITION?

It probably comes as no surprise that the 16 card clubs and racetracks that stand to profit from this measure, are its primary financial backers. These backers include *Hustler Magazine* publisher and Hustler Casino operator Larry Flynt, a foreign billionaire who owns three of the five private racetracks, and a controversial Miami financier. *Source: Campaign disclosure reports*

OPPOSED BY THE CALIFORNIA POLICE CHIEFS ASSOCIATION AND LEADING PUBLIC SAFETY GROUPS

The deceptive gambling proposition would expand casino gambling into urban areas on an unprecedented scale. Law enforcement experts predict this will lead to a significant increase in crime, drunk driving and other risks to public safety that will strain already-stretched law enforcement and public safety resources even more. That's why the California Police Chiefs Association, California State Firefighters Association and other law enforcement organizations oppose this measure. The initiative is also opposed by coalitions representing many California Indian Tribes, as well as the National Tax Limitation Committee. Major newspapers, including the Los Angeles Times, Sacramento Bee, and Oakland Tribune have published negative editorials about the measure.

"Proponents of the casino gambling initiative want to buy your vote by promising much-needed tax revenue to California. But the threat to public safety is too high a price to pay in return. We call on California voters not to be fooled by the paid petition pushers hired by the gambling industry to qualify this measure for the ballot."

California Police Chiefs Association

CREATES TAX LOOPHOLES FOR CARD CLUB AND RACETRACK OWNERS

According to the Attorney General's official title and summary the measure exempts the 16 authorized card clubs and racetracks from new or increased state or local taxes, fees or levies imposed after September 1, 2003. The impact on local government revenues could be significant.

Sources: Official title and summary prepared by the California Attorney General, former California State Auditor Kurt Sjoberg, Gaming Revenue Act Section 3, subparagraph 19(i)(4) Prohibition on Additional Fees, Taxes and Levies.

EXEMPTS ITS PROMOTERS FROM STATE AND LOCAL LAWS.

The measure also exempts the 16 authorized card club and racetrack owners from compliance with many state and local laws when constructing or operating their new facilities. Specifically, they would be exempted from complying with the California Environmental Quality Act (CEQA), and local zoning laws. For example, when these private companies build their giant new casinos they would be exempt from the environmental review process that protects local land use plans, water supplies, air quality and requires mitigation of traffic impacts. *Source: Gaming Revenue Act Section 19(i)*

Stop the Flynt Gambling Proposition

Who Opposes the Gaming Revenue Act of 2004?

(as of May 14, 2004)

Statewide Public Safety Organizations

California Coalition of Law Enforcement Associations
California Police Chiefs Association
California State Firefighters' Association
California District Attorneys Association
Peace Officers Research Association of California *
California Correctional Peace Officers Association
Chicano Correctional Workers Association *
Minorities in Law Enforcement

County Sheriffs

Alameda County Sheriff Charles C. Plummer
Alpine County Sheriff John M. Crawford
Amador County Sheriff Michael Prizuich
Butte County Sheriff Perry L. Raniff
Colusa County Sheriff Scott D. Marshall
Contra Costa County Sheriff Warren E. Rupf
Del Norte County Sheriff Dean D. Wilson
Glenn County Sheriff Robert A. Shadley, Jr.
Inyo County Sheriff Dan Lucas
Kings County Sheriff Ken Marvin *
Lake County Sheriff Rodney K. Mitchell
Lassen County Sheriff Bill Freitas *
Marin County Sheriff Robert T. Doyle
Mariposa County Sheriff James H. Allen
Mendocino County Sheriff Anthony J. Craver
Modoc County Sheriff Bruce Mix
Mono County Sheriff Daniel A. Paranick
Placer County Deputy Sheriff David Hunt
Riverside County Sheriff Bob Doyle
San Benito County Sheriff Curtis J. Hill
San Bernardino County Sheriff Gary S. Penrod
San Diego County Sheriff William B. Kolender
Santa Cruz County Sheriff Mark Tracy
Shasta County Sheriff Jim Pope *
Solano County Sheriff Gary R. Stanton

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ADDITIONAL INFORMATION
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Education Community (cont'd)

Fresno County Superintendent of Education Peter G. Mehas
Imperial County Superintendent of Education John D. Anderson
Inyo County Superintendent of Education George Lozito
Mariposa County Superintendent of Education Patrick J. Holland *
Mendocino County Superintendent of Education Paul A. Tichinin
Monterey County Superintendent of Education William D. Barr *

Other National, Statewide and Local Organizations

Sierra Club California
National Tax Limitation Committee
California Black Chamber of Commerce
California Nations Indian Gaming Association
National Native American Bar Association
Greater Los Angeles African American Chamber of Commerce
Sacramento Civil Rights Network

Local Government Officials

Riverside County Supervisor Marion Ashley
Riverside County Supervisor John F. Tavaglione
Antioch Councilmember Arne Simonsen
Diamond Bar Mayor Bob Zirbes
Fortuna Mayor Mel Berti
Los Angeles Councilmember Bernard C. Parks
Los Angeles Councilmember Jan C. Perry
Lynwood Mayor Louis Byrd
City of Riverside Planning Commissioner Stan E. Brown

Federal and State Officials

U.S. Representative Bob Filner
U.S. Representative Maxine Waters
State Senate Majority Leader Don Perata
State Senator James F. Battin, Jr.
State Senator James L. Brulte
State Senator Denise Moreno Ducheny
State Senator Dennis Hollingsworth
State Senator Tom McClintock
State Senator Nell G. Soto
Assemblymember Russ Bogh
Assemblymember Bonnie Garcia
Assemblymember Ray Haynes
Assemblymember Rick Keene
Assemblymember Christine Kehoe *
Assemblymember Jay LeSuer
Assemblymember Ken Maddox
Assemblymember Bill Maze
Assemblymember George A. Plescia
Assemblymember Sharon Runner
Former Assemblymember Roderick D. Wright *

Native American Tribes and Tribal Organizations (cont'd)

Redding Rancheria
Redwood Valley Rancheria
Resighini Rancheria
Rumsey Band of Wintun Indians
San Pasqual Band of Mission Indians
Santa Ysabel Band of Diegueno Indians
Scotts Valley Band of Pomo Indians
Sherwood Valley Rancheria
Smith River Rancheria
Soboba Band of Luiseno Indians
Sycuan Band of the Kumeyaay Nation
Tule River Indian Reservation
Twenty-Nine Palms Band of Mission Indians
United Auburn Indian Community
Viejas Band of Kumeyaay Indians
Yurok Tribe

Fiscal Impact of the Proposed "Gaming Revenue Act of 2004" on Police Departments throughout California

If the voters pass the Gaming Revenue Act initiative in November 2004, it is a near certainty¹ that 16 specifically identified horseracing tracks and card clubs will receive an exclusive right to operate 30,000 slot machines. Under the act's provisions, a portion of the revenues generated from the net winnings of these slot machines will be provided to local governments for additional sheriffs and police officers.

The initiative's "Findings and Purpose" section asserts that funds generated from the Gaming Revenue Act will help alleviate California's current unprecedented budget deficit and dire fiscal crisis. However, for several reasons described below, the initiative does not actually relieve local government budget deficits, and in the case of police departments, may further strain already limited funding.

This is because the Gaming Revenue Act mandates that:

- All funds received must be used to "supplement" and not "supplant" current spending. As a result, police departments must use the funds they receive to expand current staffing and not to balance existing budgets.
- The funds earmarked for police departments are also limited "exclusively for additional neighborhood police officers." By specifically directing the expenditure of funds in this way, we believe police departments are not allowed to use initiative revenues to equip, support, train or supervise these additional neighborhood police officers. These additionally incurred costs will have to be borne by existing police department budgets or other revenues.

More specific information on these two issues and the potential fiscal impacts they generate are described in the following sections.

¹ The act requires all 61 tribes with state gaming compacts to voluntarily agree to pay 25% of their net winnings to the trust fund, accept other state mandates, and submit amended compacts to the Secretary of the Interior within 90 days of the initiative's passage, or the 16 specified horseracing tracks and card clubs shall immediately be authorized to operate 30,000 slot machines. These requirements establish a near certainty that the 16 specified horseracing tracks and card clubs will be granted the right to operate 30,000 slot machines, since obtaining 100% agreement from 61 sovereign nations to voluntarily provide 25% of their winnings is unreasonable and the 90-day timeline is unachievable.

county's geographic boundaries, or the population of non-incorporated areas of the county. Obviously, if county-wide total per capita is used, the allocation to the counties will be significantly greater than if only non-incorporated populations are used. Further, the mathematics of the allocation creates a lower allocation to the cities within a county as the allocation to their county increases. Consequently, depending on which county per capita population is used, cities in urbanized counties could see a significant revenue swing. But again, no matter the allocation basis used or the amount of funds made available under the initiative, we believe police departments and cities will have to find additional revenue to support the costs of fully deploying these additional neighborhood police officers.

About this analysis

This independent fiscal analysis was prepared by Sjoberg+Evashenk Consulting, Inc. Firm partners, Kurt Sjoberg, MBA, CFE, CFSA, former California State Auditor, and Marianne Evashenk, CPA, CGFM, former Chief Deputy State Auditor, conducted the analysis. Collectively they possess more than 50 years experience conducting financial analyses and evaluations of federal, state and local government activities.

THE GAMING REVENUE ACT OF 2004

SECTION 1. Title.

This Act shall be known as and may be cited as "The Gaming Revenue Act of 2004." This Act may also be cited as "The Gaming Revenue Act" or the "Act."

SECTION 2. Findings and Purpose.

The People of the State of California hereby make the following findings and declare that their purpose in enacting this Act is as follows:

(a) California now faces an unprecedented budget deficit of billions of dollars that particularly threatens funding for education, police protection, and fire safety. As a result of California's budget crisis, the State needs to find new ways to generate revenues without raising taxes. In March 2000, Proposition 1A was enacted, which triggered an unprecedented expansion of Indian casino gaming, gave Indian tribes a monopoly on casino gaming, and has led to billions of dollars in profits for Indian tribes, but little or no taxes to the State. Moreover, local governments and communities have not been adequately protected, the State does not have sufficient regulation and oversight of tribal casino gaming, and tribal casinos have not complied with state laws applicable to other businesses and designed to protect California citizens, such as laws regarding the environment and political contributions. Gaming tribes also have failed to fully fund a trust fund to promote the welfare of Indian tribes that do not operate large casinos. Some Indian tribes have attempted to acquire land far away from their reservations or traditional lands to be used as casinos and not for use as traditional reservations. Tribes have expended over \$120 million dollars in political contributions but have refused to comply with disclosure requirements.

(b) California should request that all Indian gaming tribes voluntarily share some of their gaming profits with the State that can be used to support public education, and local police and fire services, and address other problems associated with tribal casino gaming, and in the event all Indian gaming tribes do not do so, California should grant gaming rights to other persons who will share substantial revenue with the State that can be used to support public education, and local police and fire services.

(c) The Governor should be authorized to negotiate amendments to all existing compacts with Indian tribes to allow these Indian tribes to continue to have the exclusive right to operate gaming devices in the State of California if the Indian tribes agree to pay twenty-five percent (25%) of their winnings from such devices to a gaming revenue trust fund and agree to comply with State laws, including laws governing environmental protection, gaming regulation and campaign contributions and their public disclosure.

(d) In the event all Indian tribes with existing compacts do not agree to these terms, five existing horseracing tracks and

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The measure's lengthy discussion of findings and purpose is political campaign propaganda designed to sound appealing to voters, even though its primary points are completely undermined by the actual legal language of the measure.

The measure starts off by describing California's huge state budget deficit, and later describes its purpose to "raise revenues immediately through this initiative to help solve California's current fiscal crisis." In reality, not a penny of the money to be generated by the measure can be used to help close the state's budget gap. All of the money is earmarked for specific purposes, including profits for the card club and racetrack owners, allocations for horse racing associations, and monies to local governments. The only money that goes to the state is for the increased costs of regulating the new casinos at card clubs and racetracks.

The statement that Indian casino gaming has produced "little or no taxes to the state" is untrue; patrons pay state taxes on winnings; non-member employees pay state taxes on earnings; tribal members living off-reservation pay state income taxes on distributions; members pay state sales taxes on off-reservation purchases; and tribes pay more to the State than the State would receive from this initiative.

California gaming tribes already share substantial gaming revenue with the state, as provided in the current 20 year gaming compacts entered into between the state and tribes and approved by the voters in 2000. Those funds are available to be used to support state and local governments impacted by gaming, to assist non-gaming tribes, and for other purposes determined by the legislature. The measure does not provide any money for "public education."

The measure doesn't authorize "negotiations"—it coerces tribes to accept illegal provisions. Federal law requires that negotiations be conducted in "good faith," but this measure actually would prevent the Governor from doing so. It is deceptively constructed, because it includes conditions that its proponents know are impossible to satisfy. (Further discussed below.)

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money allocated for county offices of education and local governments.

(n) Indian tribes have attempted to acquire land at locations off of their reservations or distant from their traditional Indian lands to be used solely as casinos and not for use as traditional reservations. **Gaming on these newly acquired lands would be detrimental to the surrounding communities.** Therefore, the Gaming Revenue Act prohibits the location of gaming establishments by Indian tribes on newly or recently acquired lands.

(o) In order to **reasonably restrict the growth of non-Indian gaming**, non-Indian gaming authorized by this Act will be limited to the sites of five existing horseracing tracks located in the counties of Alameda, Los Angeles, Orange and San Mateo, and the sites of eleven existing gambling establishments located in the Counties of Los Angeles, San Diego, Contra Costa, and San Mateo. To insure that there are no new gambling establishments other than those in existence as of the enactment of the Act, the current limitation on the issuance of new gambling licenses, which expires in 2007, will be made permanent. The purpose of such restrictions is to exercise control over the proliferation of gambling.

(p) The expansion of Indian gaming has led to conflicts between tribes and local governments. **In some cases, tribes have failed to take sufficient steps to address local concerns and impacts.** Therefore, this Act will authorize the Governor to negotiate amendments to all existing compacts pursuant to which all tribes agree to enter into good faith negotiations with county and city governments to address and mitigate community impacts.

(q) To clarify legal jurisdiction over Indian casinos, **state courts should have jurisdiction over any criminal or civil proceeding arising under this Act, under a compact, or related to a tribal casino.** Therefore, this Act will authorize the Governor to negotiate amendments to all existing compacts pursuant to which all tribes agree that state courts will have jurisdiction over such disputes.

(r) Indian tribes have used their gambling profits to spend well over \$120 million on campaign contributions and political activities in California. **But some Indian tribes maintain that they are sovereign nations and do not have to comply with California's laws and regulations relating to political contributions and reporting.** Because these tribal political expenditures result substantially from, and often concern, gaming activities in California, this Act will authorize the Governor to negotiate amendments to all existing compacts pursuant to which all tribes agree to comply with the California Political Reform Act.

(s) While some terms of this Act concern conditions tribal casinos must meet if Indian tribes are to retain a monopoly over slot machines, **it is the express intent of the voters to raise revenues immediately through this initiative to help solve California's current fiscal crisis**, regardless of whether those revenues come from tribal or non-tribal gaming, regardless of court decisions regarding Indian gaming, regardless of changes in federal law, or regardless of any challenges or efforts by the Indian tribes or others to delay or circumvent this Act. Therefore, if all Indian tribes with

The measure suggests that new tribal casinos would be detrimental to surrounding communities, but then authorizes 16 new card club and racetracks casinos that would somehow not be detrimental to surrounding communities. In any event, federal law, not state law, controls where tribes may locate casinos.

The measure plays favorites by rewarding the private owners of 16 card clubs and racetracks with the constitutional right to open giant casinos, while preventing other card clubs and racetracks from doing so. There is no rationale or objective criteria for selecting the 11 card clubs for new gambling casinos while preventing such casinos at the state's 88 other card clubs. Instead, the 11 appear to have been chosen as a result of political deal-making.

The chosen locations are all in urban areas. To date, tribal gaming has largely taken place on tribal lands in rural areas. This measure brings gambling casinos into urban neighborhoods.

While expressing concern about the relationship between tribes and local governments, the measure explicitly overrides any local restrictions or regulations that might restrict or prevent the new card club and racetrack casinos.

Forcing all legal issues into state courts is unconstitutional. (Further discussed below.)

While tribes are sovereign nations, nearly all voluntarily report their political contributions in compliance with state law. Citing this as an issue is a politically-motivated effort to appeal to voters.

Again, the measure claims that it is focused on raising revenue. As discussed below, its clear focus is on expanding gambling at 16 specified card clubs and racetracks. The measure would not result in any new money being paid to the state's general fund.

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the State and an Indian tribe prior to the effective date of the Gaming Revenue Act of 2004. All compacts amended pursuant to this subdivision (h) shall include the following terms, conditions and requirements:

- (1) The Indian tribe shall agree to pay twenty-five percent (25%) of its net win from all gaming devices operated by it or on its behalf to the Gaming Revenue Trust Fund. Such payments shall be made monthly and shall be due within 30 days, of the end of each month. "Net win" means the wagering revenue from all gaming devices operated by the Indian tribe or on its behalf retained after prizes or winnings have been paid to players or to pools dedicated to the payment of such prizes and winnings, and prior to the payment of operating or other expenses. Such payments shall commence immediately after federal approval of the amended compacts
- (2) The Indian tribe shall agree to report to the Division of Gambling Control the net win on all gaming devices operated by or on behalf of it. Such reports shall be submitted monthly, shall be due within 30 days of the end of each month, and shall be available to the public upon request.
- (3) The Indian tribe shall agree to pay for an annual audit performed by an independent firm of certified public accountants approved by the California Gambling Control Commission to ensure that the net win is properly reported and the payment is properly paid to the Gaming Revenue Trust Fund. The audit report shall be available to the public upon request.
- (4) The Indian tribe shall agree to comply with the California Political Reform Act.
- (5) The Indian tribe shall agree that its casino facilities shall comply with the California Environmental Quality Act.
- (6) The Indian tribe shall agree to enter into good faith negotiations with any city or county within which the Indian lands are located where Class III gaming is conducted to mitigate local naming

and limit casino gaming to tribal lands.

The measure appears to authorize negotiations between the Governor and each of the tribes—a back and forth discussion which could lead to a voluntary agreement between the parties. There is no back and forth here—the measure dictates the pre-established terms of the compact amendment. Moreover, there is nothing voluntary here—the measure forces tribes to accept the specific terms if they are to maintain the benefit of their existing negotiated compacts. Not only are some of the onerous terms illegal themselves, as discussed below, but the whole coercive scheme is inconsistent with IGRA's requirement for good faith negotiations between state and tribal governments.

Requiring all California tribes to pay 25% of their net win (gross revenues after payment of prizes) to the state—on top of the substantial amount they already pay—clearly violates the federal law that restricts states' ability to tax tribes. Of the many states with tribal gaming, only Connecticut has received federal approval for a full 25% payment, and the circumstances there—two giant casinos in the middle of the densely populated northeast—are unique in the country and far different than the situation in California. The federal government would never approve applying such a high payment percentage to every one of the tribes in California—regardless of their size or location.

Independent audits of tribal casinos already are required by Federal law and the existing compacts.

IGRA prohibits States from using compacts to extend their jurisdiction beyond what is reasonably related to and necessary for the regulators of gaming.

The existing compacts already require environmental review and good-faith discussions between tribes and local governments and mitigation of off-reservation environmental impacts.

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purposes of this Act, "site" shall mean the real property on which an authorized horseracing track or an authorized gambling establishment was located as of September 1, 2003 and shall include real property adjacent to the site.

and racetracks from "any other provision of state or local law." That means, once authorized, the construction and operation of the giant new casinos are exempted from state environmental laws (CEQA), local zoning laws, and any other law that would stand in their way.

Naming the counties where the casinos would be located hides the identities of the private owners (including Larry Flynt) of the card clubs and racetracks who are hand-picked to open new casinos under the measure. Most of these new casinos would be in urban locations in the Los Angeles area, and three would be in the San Francisco Bay Area. There is no rationale for choosing these facilities over others.

The casinos are tied to specific locations, not to ongoing card games and horseracing. In other words, the measure allows the owners of card clubs and racetracks to stop conducting card games and horse races altogether and still conduct casino gambling at their sites.

New casinos can be built on land "adjacent" to the existing card club or racetrack. "Adjacent" legally means "nearby," but not necessarily touching, the current site – meaning that "nearby" neighborhoods could be casino locations, even if the "nearby" site is residential or even in another city.

The operation of these gaming devices shall be subject to the following provisions:

(1) Payments.

- a. Owners of authorized gambling establishments and authorized horseracing tracks shall pay thirty percent (30%) of the net win from gaming devices operated by them to the Gaming Revenue Trust Fund created pursuant to this section. Such payments shall be made monthly and shall be due within 30 days of the end of each month. "Net win" means the wagering revenue from gaming devices prorated pursuant to this Act retained after prizes or winnings have been paid to players or to pools dedicated to the payment of such prizes and winnings, and prior to the payment of operating or other expenses.
- b. Owners of authorized gambling establishments and authorized horseracing tracks shall report to the Division of Gambling Control the net win on all gaming devices operated by or on behalf of them. Such reports shall be submitted monthly, shall be due within 30 days of the end of each month, and shall be available to the public upon request.

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horseracing tracks. Notwithstanding the limit of 3,000 gaming devices, owners of authorized horseracing tracks may also transfer, sell, license, or assign their rights to own and operate one or more gaming devices to other authorized horseracing tracks or authorized gambling establishments, but in no event shall the total number of gaming devices authorized to be operated at an authorized horseracing track exceed 3,800. The owners of gaming devices that are reallocated, or are transferred, sold, licensed, or assigned pursuant, to this subdivision, shall make the distributions required by California Business and Professions Code Section 19609.

A racetrack casino can operate up to 3,800 slot machines, 25% more than the biggest Las Vegas casino.

- ii. For authorized gambling establishments:
 - a. Authorized gambling establishments located in Los Angeles County authorized as of September 1, 2003 to operate 100 or more gaming tables shall be authorized to operate 1700 gaming devices each; authorized gambling establishments in Los Angeles County authorized as of September 1, 2003 to operate between 14 and 99 gaming tables shall be authorized to operate 1000 gaming devices each; and all other authorized gambling establishments shall be authorized to operate 800 gaming devices each.
 - b. Licensed gambling establishments that are not authorized gambling establishments under this section shall be licensed for 4 gaming devices for each table authorized pursuant to the Gambling, Control Act as of September 1, 2003 up to a maximum of 2000 gaming devices in total, which they cannot operate at their gambling establishments, but may transfer, sell, or assign the rights to own or operate such gaming devices to authorized gambling establishments.
 - c. In order to ensure the maximum generation of revenue for the Gaming Revenue Trust Fund, in the event the owners of an authorized gambling establishment described in subdivision (a) for any reason cease to have or lose the right to operate

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gaming in the State of California. Any such agreement approved by the Gambling Control Commission shall not exceed three years in duration.

(3) Suspension of Authorization.

The authorization to operate gaming devices and to transfer, sell, or assign rights to gaming devices pursuant to this subdivision may be suspended by the Gambling Control Commission for failure to make the payments imposed by this subdivision within 30 days of such payments becoming due.

(4) Prohibition on Additional Fees, Taxes, and Levies.

The payments imposed pursuant to this Act are in lieu of any and all other fees, taxes or levies, including but not limited to revenue, receipt or personal property taxes, that may be charged or imposed, directly or indirectly, against authorized horseracing tracks or authorized gambling establishments, their patrons, gaming devices, employers or suppliers, by the State, cities or counties, excepting fees, taxes or levies that were in effect and imposed prior to September 1, 2003 that applied to horseracing and controlled games with cards or tiles, or that are applied generally to commercial activities, including sales and use, income, corporate or real property taxes. The physical expansion of gaming facilities or the operation of gaming devices authorized by this Act shall not be considered an enlargement of gaming operations under any local ordinance related to fees, taxes, or levies.

(5) Licenses.

The owners of authorized gambling establishments and the owners of authorized horseracing tracks shall be licensed by the State Gambling Control Commission under the Gambling Control Act.

(6) Other Laws.

The Act shall supercede any inconsistent provisions of state, city or county law relating to gaming devices including, but not limited to, laws regarding the transportation, manufacture, operation, sale, lease, storage, ownership, licensing, repair or use of gaming devices authorized in this Act. In order to encourage the maximum generation of revenue for the Gaming Revenue Trust Fund, the operation of gaming devices authorized pursuant to this Act is not

If the card club or racetrack refuses to make required payments to the state fund, the Commission is merely authorized, but not required to, suspend slot machine authority.

The measure exempts the authorized card clubs and racetracks from future state and local tax increases.

The measure overrides all local laws limiting gambling operations or providing for local revenue from expanded gambling operations.

All state and local laws relating to slot machine operations are not only overridden, they may never be changed in the future. The provisions of this measure are enshrined in the Constitution forever. This provision violates the initiative power which reserves to the people the right to change any

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Indian tribe which operates fewer than 350 gaming devices.

- (c) \$3 million to be awarded annually by the Board of Trustees to responsible gambling programs.

- (d) After the distributions required pursuant to subdivisions (3)(a),(b). and (c), the remaining monies shall be distributed as follows:

1. Fifty percent (50%) to county offices of education to provide services for abused and neglected children and children in foster care. These monies shall be allocated to each county office of education according to each county's proportionate share of the annual statewide total of child abuse referral reports for the prior calendar year and shall be used to improve educational outcomes of abused and neglected children and children in foster care. Each county office of education shall allocate these funds to county child protective services agencies to provide these services. Funds received by each county child protective service agency shall be used for the following purposes:

- i. Out-stationing county child protective services social workers in schools;
- ii. Providing appropriate caseloads to ensure that professional staff will have sufficient time to provide services necessary to improve the educational outcomes of abused and neglected children and children in foster care;
- iii. Providing services to children in foster care to minimize mid-year transfers from school to schools;
- iv. Hiring Juvenile court workers whose responsibility it is to ensure the implementation of court orders issued by juvenile court judges

No standards are provided for what is a "responsible gambling program." It is left completely to the discretion of the Board. As a result, the Board could give the entire \$3 million to a single program based on any criteria the Board sets.

These funds, which are designated to improve the education of abused, neglected, and foster care children, may never get into the hands of people who can provide that help, because the schools don't get the money.

First, the money is to be allocated by the Board based on the number of referral reports. This number may be unrelated to need, however, since only a fraction of these referral reports lead to a child being placed in the child welfare system. (A county would receive more money under the measure for increasing the number of referrals, even if they were not justified.)

Second, while the money is to be used for educational purposes, none of the money actually goes into the education system. The money goes from the state fund to the county office of education, which then turns around and gives it to the county child protective service agency. The child protective service agency may not be the best place to operate these educational programs. In fact, some existing programs are operated by the county offices of education, which would not get to keep any money under the measure. Other programs are operated through the State Department of Education, which also gets no money under the measure. In short, this allocation scheme creates new bureaucracy and layers of red tape, in the guise of helping educate children.

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(b) Three quarters of one percent (.75%) of the net win from all gaming devices operated by, or on behalf of, owners of authorized horseracing tracks upon which a thoroughbred racing meeting was conducted in 2002 shall be distributed for thoroughbred incentive awards and shall be payable to the applicable official registering agency and thereafter distributed as provided in the California Horse Racing Law.

(c) One and one-half percent (1½%) of the net win from all gaming devices operated by, or on behalf of, owners of authorized horseracing tracks upon which a thoroughbred racing meeting was conducted in 2002 shall be distributed to each of those thoroughbred racing associations and racing fairs that are not authorized horseracing tracks in the same relative proportions that such thoroughbred racing associations or racing fairs generated commissions during the preceding calendar year. A lessee of an authorized horseracing track as of the effective date of the Act shall not be deemed to be an authorized horseracing track for the purposes of this Section.

(d) Seventeen and three quarters percent (17.75%) of the net win from all gaming devices operated by, or on behalf of, owners of authorized horseracing tracks upon which a thoroughbred racing meeting was conducted in 2002 shall be pooled ("the pooled net win") and shall be distributed in the form of purses for thoroughbred horses in accordance with the provisions of this subdivision (d).

- (i) The pooled net win shall be allocated to thoroughbred racing associations and racing fairs throughout the State of California and shall be distributed among each of them in such manner as to equalize on an average daily basis purses for thoroughbred races other than stakes and special events. Notwithstanding the foregoing, pooled net win may be allocated to supplement purses for thoroughbred races so the thoroughbred racing associations and racing fairs may maintain up to their historic relative proportions between overnight races, and stakes races and special events. Increases in the aggregate amount of purses for stakes races of thoroughbred racing associations and racing fairs resulting from pooled net win contributions shall be determined in accordance with an agreement signed by all the thoroughbred racing associations and the organization responsible for negotiating thoroughbred purse agreements on behalf of thoroughbred horsemen.
- (ii) Notwithstanding the provisions of subdivision (d)(i) of this Section, the funds distributable to thoroughbred racing associations and racing fairs from the pooled net win shall be allocated in such a manner as to cause average daily purses for thoroughbred races, other than stakes races and special events, to be the percentages of the average daily purses for such races conducted by thoroughbred racing associations in the Central and Southern zone as set forth below:

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SECTION 6. *Section 19863 of the Business and Professions Code is amended to read as follows:*

Sec.19863.

A publicly traded racing association or a qualified racing association, or their successors in interest, shall be allowed to operate only one ~~gaming~~ gambling establishment, and the ~~gaming~~ gambling establishment shall be located on the same ~~premises~~ site as the entity's racetrack was located in 2002.

SECTION 7. *Section 19985 is added to the Business and Professions Code to read as follows:*

Sec.19985.

(a) Except as provided in this section, the Gambling Control Act, including, but not limited to, the jurisdiction and powers of the Division and Commission to enact regulations, to enforce applicable law, to conduct background investigations and to issue licenses and work permits, shall apply to authorized horseracing tracks as defined in the Gaming Revenue Act, and to the operators of gaming devices thereon, including their successors in interest, in and to the same extent the Gambling Control Act applies to gambling establishments.

(b) Employees of authorized horseracing tracks who are not owners, shareholders, partners or key employees, and whose job responsibilities do not involve controlled games, shall not be required to obtain work permits pursuant to this Chapter.

SECTION 8. *Section 19962 of the Business and Professions Code is amended to read as follows:*

19962.

(a) On and after the effective date of this chapter, neither the governing body nor the electors of a county, city, or city and county that has not authorized legal gaming within its boundaries prior to January 1, 1996, shall authorize legal gaming.

(b) No ordinance in effect on January 1, 1996, that authorizes legal gaming within a city, county, or city and county may be amended to expand gaming in that jurisdiction beyond that permitted on January 1, 1996.

(c) ~~This section shall remain operative only until January 1, 2007, and as of that date is repealed.~~

(c) This section is not intended to prohibit gaming authorized by the Gaming Revenue Act of 2004.

SECTION 9. *Section 19963 of the Business and Professions Code is amended to read as follows:*

SECTION BY SECTION ANALYSIS

called the "Indian Gaming Revenue Sharing Trust Fund" for the receipt and deposit of moneys derived from gaming device license fees that are paid into the fund pursuant to the terms of tribal-state gaming compacts, and monies received from the Gaming Revenue Trust Fund, for the purpose of making distributions to noncompact tribes. Moneys in the Indian Gaming Revenue Sharing Trust Fund shall be available to the California Gambling Control Commission, upon appropriation by the Legislature, for the purpose of making distributions to noncompact tribes, in accordance with the Gaming Revenue Act and tribal-state gaming compacts.

SECTION 13. *Section 8.3 is added to Article XVI of the California Constitution to read as follows:*

Sec. 8.3

(a) Funds appropriated pursuant to the Gaming Revenue Act of 2004 shall not be deemed to be part of "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B" as that term is used in paragraphs (2) and (3) of subdivision (b) of Section 8.

(b) Revenues derived from payments made pursuant to the Gaming Revenue Act of 2004 shall not be deemed to be "General Fund revenues which may be appropriated pursuant to Article XIII B" as that term is used in paragraph (1) of subdivision (b) of Section 8 nor shall they be considered in the determination of "per capita General Fund revenues" as that term is used in paragraph (3) of subdivision (b) and in subdivision (e) of Section 8.

SECTION 14. *Section 14 is added to Article XIII B of the California Constitution to read as follows:*

Sec. 14

(a) For purposes of this article, "proceeds of taxes" shall not include the revenues created by the Gaming Revenue Act of 2004.

(b) For purposes of this article, "appropriations subject to limitation" of each entity of government shall not include appropriations of revenues from the Gaming Revenue Trust Fund created by the Gaming Revenue Act of 2004.

SECTION 15. *Amendment*

The statutory provisions of this Act may be amended only by a vote of two-thirds of the membership of both houses of the Legislature. All statutory amendments to this Act shall be to further the Act and must be consistent with its purposes.

SECTION 16. *Consistency With Other Ballot Measures*

The provisions of this Act are not in conflict with any initiative measure that appears on the same ballot that amends the

Article 2, § 10(c) of the Constitution allows the legislature to put amendments to an initiative on the ballot – whether or not they are consistent or inconsistent with the initiative. This provision contradicts that Constitutional authority by preventing the legislature from putting certain amendments before the voters.

While the purpose of the measure is supposedly to increase state and local revenue, this provision makes it clear that